



19 FEB 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Monica McCormick Graham, Ph.D.
FISH & RICHARDSON P.C., P.A.
60 South Sixth Street, Suite 3300
Minneapolis, MN 55402

In re Application of :
LEIF ANDERSSON ET AL. :
Appl. No.: 10/070,794 :
PCT No.: PCT/EP00/09896 :
Int. Filing Date: 11 September 2000 :
Priority Date: 10 September 1999 :
Agent's File Reference: 11145-023US1 :
For: VARIANTS OF THE GAMMA CHAIN OF :
AMPK, DNA SEQUENCES ENCODING THE SAME, :
AND USES THEREOF :

DECISION UNDER
37 CFR 1.181

This Office is in receipt of applicants' 07 January 2003 communication, which is being treated as a petition under 37 CFR 1.181 requesting that the copies of the declaration, preliminary amendment, Verified Statement Under 37 CFR 1.821(f), paper copy of the sequence listing and the Petition for Two-Month Extension of Time and the transmittal letter filed with the present petition be accepted in lieu of the originals filed on 04 October 2002. No petition fee is required. The petition is **GRANTED**.

BACKGROUND

On 08 March 2002, applicants filed U.S. application 10/070,794 as a national stage entry of international application PCT/EP00/09896, which claimed priority to a European application filed 10 September 1999. No declaration was filed with the application papers.

On 04 June 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) informing applicants that a declaration executed by the inventors in compliance with 37 CFR 1.497(a) and (b) and a \$65 surcharge was due. Additionally, a substitute computer readable form (CRF) of the "Raw Sequence Listing" and a substitute paper copy of the "Sequence Listing" were required.

On 07 January 2003, applicants filed the present petition forwarding copies of the declaration, preliminary amendment, Verified Statement Under 37 CFR 1.821(f), paper copy of the sequence listing and the Petition for Two-Month Extension of Time and the transmittal letter.

DISCUSSION

MPEP at section 503 provides that:

"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."


A review of the papers filed with the present petition reveals that a declaration and authorization to charge the surcharge in the amount of \$65 was received by the Office on 04 October 2002. The proof is in the copy of the postcard receipt which itemizes, inter alia, a combined declaration and power of attorney, preliminary amendment, Verified Statement Under 37 CFR 1.821(f), paper copy of the "Sequence Listing", a CRF diskette of the Sequence Listing and a Petition for Two-Month Extension of Time. Therefore, in view of the evidence of record and counsel's affirmation that the papers filed on 07 January 2003 are true copies of the originals filed on 04 October 2002, the copies of the papers filed on 07 January 2003 may properly be accepted as having been filed on 04 October 2002.

CONCLUSION

Applicants' petition under 37 CFR 1.181 for entry of the papers filed on 07 January 2003 in lieu of the originals filed on 04 October 2002 is hereby **GRANTED**. The copies of the declaration, preliminary amendment, Verified Statement Under 37 CFR 1.821(f), paper copy of the "Sequence Listing" and a Petition for Two-Month Extension of Time filed with the present petition are accepted as having been filed on 04 October 2002.

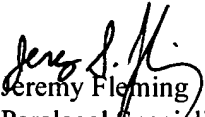
A copy of the Sequence Listing in computer readable form as required by 37 CFR 1.821(e) is still needed. Therefore, applicant is hereby accorded ONE (1) MONTH from the mailing date of this decision to file a copy of the CRF in compliance with 37 CFR 1.821-1.825 with the DO/EO/US. Extensions of time under 37 CFR 1.136(a) are available. Failure to file the CRF will result in the abandonment of this application.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter addressed to the attention of the PCT Legal Office.



Boris Milef
PCT Legal Examiner
PCT Legal Office

JSF/BM:jf



Jeremy Fleming
Paralegal Specialist
PCT Legal Office

(703)308-6154